

LEGISLATURE OF NEBRASKA

ONE HUNDRED SECOND LEGISLATURE

FIRST SESSION

LEGISLATIVE BILL 230

Final Reading

Introduced by Sullivan, 41; Campbell, 25; Hansen, 42; Karpisek, 32;
Krist, 10; Price, 3; Schumacher, 22; Heidemann, 1;
Fulton, 29.

Read first time January 10, 2011

Committee: Government, Military and Veterans Affairs

A BILL

1 FOR AN ACT relating to public records; to amend section 84-712.05,
2 Revised Statutes Cumulative Supplement, 2010; to change
3 provisions relating to access to public records; and to
4 repeal the original section.
5 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 84-712.05, Revised Statutes Cumulative
2 Supplement, 2010, is amended to read:

3 84-712.05 The following records, unless publicly
4 disclosed in an open court, open administrative proceeding, or open
5 meeting or disclosed by a public entity pursuant to its duties, may
6 be withheld from the public by the lawful custodian of the records:

7 (1) Personal information in records regarding a student,
8 prospective student, or former student of any educational institution
9 or exempt school that has effectuated an election not to meet state
10 approval or accreditation requirements pursuant to section 79-1601
11 when such records are maintained by and in the possession of a public
12 entity, other than routine directory information specified and made
13 public consistent with 20 U.S.C. 1232g, as such section existed on
14 January 1, 2003;

15 (2) Medical records, other than records of births and
16 deaths and except as provided in subdivision (5) of this section, in
17 any form concerning any person; records of elections filed under
18 section 44-2821; and patient safety work product under the Patient
19 Safety Improvement Act;

20 (3) Trade secrets, academic and scientific research work
21 which is in progress and unpublished, and other proprietary or
22 commercial information which if released would give advantage to
23 business competitors and serve no public purpose;

24 (4) Records which represent the work product of an
25 attorney and the public body involved which are related to

1 preparation for litigation, labor negotiations, or claims made by or
2 against the public body or which are confidential communications as
3 defined in section 27-503;

4 (5) Records developed or received by law enforcement
5 agencies and other public bodies charged with duties of investigation
6 or examination of persons, institutions, or businesses, when the
7 records constitute a part of the examination, investigation,
8 intelligence information, citizen complaints or inquiries, informant
9 identification, or strategic or tactical information used in law
10 enforcement training, except that this subdivision shall not apply to
11 records so developed or received relating to the presence of and
12 amount or concentration of alcohol or drugs in any body fluid of any
13 person;

14 (6) Appraisals or appraisal information and negotiation
15 records concerning the purchase or sale, by a public body, of any
16 interest in real or personal property, prior to completion of the
17 purchase or sale;

18 (7) Personal information in records regarding personnel
19 of public bodies other than salaries and routine directory
20 information;

21 (8) Information solely pertaining to protection of the
22 security of public property and persons on or within public property,
23 such as specific, unique vulnerability assessments or specific,
24 unique response plans, either of which is intended to prevent or
25 mitigate criminal acts the public disclosure of which would create a

1 substantial likelihood of endangering public safety or property;
2 computer or communications network schema, passwords, and user
3 identification names; guard schedules; ~~ex~~—lock combinations; or
4 public utility infrastructure specifications or design drawings the
5 public disclosure of which would create a substantial likelihood of
6 endangering public safety or property, unless otherwise provided by
7 state or federal law;

8 (9) The security standards, procedures, policies, plans,
9 specifications, diagrams, access lists, and other security-related
10 records of the Lottery Division of the Department of Revenue and
11 those persons or entities with which the division has entered into
12 contractual relationships. Nothing in this subdivision shall allow
13 the division to withhold from the public any information relating to
14 amounts paid persons or entities with which the division has entered
15 into contractual relationships, amounts of prizes paid, the name of
16 the prize winner, and the city, village, or county where the prize
17 winner resides;

18 (10) With respect to public utilities and except as
19 provided in sections 43-512.06 and 70-101, personally identified
20 private citizen account payment and customer use information, credit
21 information on others supplied in confidence, and customer lists;

22 (11) Records or portions of records kept by a publicly
23 funded library which, when examined with or without other records,
24 reveal the identity of any library patron using the library's
25 materials or services;

1 (12) Correspondence, memoranda, and records of telephone
2 calls related to the performance of duties by a member of the
3 Legislature in whatever form. The lawful custodian of the
4 correspondence, memoranda, and records of telephone calls, upon
5 approval of the Executive Board of the Legislative Council, shall
6 release the correspondence, memoranda, and records of telephone calls
7 which are not designated as sensitive or confidential in nature to
8 any person performing an audit of the Legislature. A member's
9 correspondence, memoranda, and records of confidential telephone
10 calls related to the performance of his or her legislative duties
11 shall only be released to any other person with the explicit approval
12 of the member;

13 (13) Records or portions of records kept by public bodies
14 which would reveal the location, character, or ownership of any known
15 archaeological, historical, or paleontological site in Nebraska when
16 necessary to protect the site from a reasonably held fear of theft,
17 vandalism, or trespass. This section shall not apply to the release
18 of information for the purpose of scholarly research, examination by
19 other public bodies for the protection of the resource or by
20 recognized tribes, the Unmarked Human Burial Sites and Skeletal
21 Remains Protection Act, or the federal Native American Graves
22 Protection and Repatriation Act;

23 (14) Records or portions of records kept by public bodies
24 which maintain collections of archaeological, historical, or
25 paleontological significance which reveal the names and addresses of

1 donors of such articles of archaeological, historical, or
2 paleontological significance unless the donor approves disclosure,
3 except as the records or portions thereof may be needed to carry out
4 the purposes of the Unmarked Human Burial Sites and Skeletal Remains
5 Protection Act or the federal Native American Graves Protection and
6 Repatriation Act;

7 (15) Job application materials submitted by applicants,
8 other than finalists, who have applied for employment by any public
9 body as defined in section 84-1409. For purposes of this subdivision,
10 (a) job application materials means employment applications, resumes,
11 reference letters, and school transcripts and (b) finalist means any
12 applicant (i) who reaches the final pool of applicants, numbering
13 four or more, from which the successful applicant is to be selected,
14 (ii) who is an original applicant when the final pool of applicants
15 numbers less than four, or (iii) who is an original applicant and
16 there are four or fewer original applicants;

17 (16) Records obtained by the Public Employees Retirement
18 Board pursuant to section 84-1512;

19 (17) Social security numbers; credit card, charge card,
20 or debit card numbers and expiration dates; and financial account
21 numbers supplied to state and local governments by citizens; and

22 (18) Information exchanged between a jurisdictional
23 utility and city pursuant to section 66-1867.

24 Sec. 2. Original section 84-712.05, Revised Statutes
25 Cumulative Supplement, 2010, is repealed.